IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRITS No. 3776 of 2004

MAFAT LAL & ANR
V/S
STATE & ORS

Mr. VIJAY PUROHIT, for the appellant / petitioner

Date of Order : 18.10.2004

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner.

By this writ petition, the petitioner seeks a direction that the statutory bar of Section 19(l) of the Rajasthan Panchayati Raj Act shall not be attracted against the petitioners, and that the petitioners be allowed in future to contest the elections, as provided in Rajasthan Panchayati Raj Act, 1994.

The factual matrix of the case is that the petitioner no.2 is said to have got operated for tubectomi in January 1995, notwithstanding that, on 14.5.96, she gave birth to a child with the result that the petitioners incurred disqualification as provided under Section 19(l) of the Act.

In my view, the right to contest election is only statutory right, as held by Hon'ble the Supreme Court in Jyoti Basu Vs. Debi Ghosal, reported in 1982(1) SCC 691, and is available in accordance with the provisions of the relevant law only. May be that the petitioner no.2 got operated for tubectomi, and may be that, that operation failed, for whatever reason, may be including, on account of the negligence of the doctor concerned. Such failure of operation may give right to the petitioners to claim adequate, appropriate, and sufficient compensation, by seeking remedy in accordance with the law, but then thereby, the petitioner, in my view, cannot claim the declarations, or the directions, as prayed for in the writ petition, on the face of existence of the provisions of Section 19(l) on the statute book.

The writ petition is, therefore, dismissed summarily.

(N P GUPTA),J.

/tarun/